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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

	)	NO. CV - ( x)
	)	
Plaintiff(s),	)	SCHEDULING AND CASE
	)	MANAGEMENT ORDER
v.	)	
	)	<b>SEE LAST PAGE FOR PRETRIAL</b>
	)	<b>AND TRIAL DATES</b>
	)	
Defendant(s).	)	
	)	
	)	

The purpose of this Order is to enable the parties and their counsel to know well in advance the schedule to which they will be expected to adhere. SEE THE LAST PAGE OF THIS ORDER FOR THE SPECIFIED DATES. Ordinarily the dates set forth on the last page are determined after consultation with the parties at the Local Rule 6 Mandatory Status Conference, and this Order is distributed to them at that time. Accordingly, the dates and requirements are firm. The Court is very unlikely to grant continuances, even if stipulated by the parties, unless the parties establish good cause through a concrete showing.

**I. DISCOVERY CUTOFF**

**A. Non-Expert Discovery**

All non-expert discovery shall be completed by the non-expert discovery cutoff on the last page. **THIS IS NOT THE DATE BY WHICH DISCOVERY REQUESTS MUST BE SERVED; IT IS THE DATE BY WHICH ALL DISCOVERY IS TO BE COMPLETED.**

Any motion challenging the adequacy of responses to discovery must be filed, served and calendared

1 sufficiently in advance of the discovery cutoff date to permit the responses to be obtained before that date,  
2 if the motion is granted. The Court requires compliance with Local Rule 7.15 in the preparation and filing  
3 of discovery motions.

4 In an effort to provide further guidance to the parties, the Court notes the following:

5 1. Depositions. All depositions shall be scheduled to commence sufficiently in advance  
6 of the discovery cutoff date to permit their completion and to permit the deposing party enough  
7 time to bring any discovery motions concerning the deposition prior to the cutoff date.

8 2. Written Discovery. All interrogatories, requests for production of documents, and  
9 requests for admissions shall be served sufficiently in advance of the discovery cutoff date to permit  
10 the discovering party enough time to challenge (via motion practice) responses deemed to be  
11 deficient.

12 3. Discovery Motions. Whenever possible, the Court expects the parties to resolve  
13 discovery problems among themselves in a courteous, reasonable and professional manner. If they  
14 do so, resort to the Court for guidance in discovery is seldom necessary.

15 The Magistrate Judge assigned to this case will rule on discovery motions. Any review of  
16 a Magistrate Judge's discovery order must proceed by way of noticed motion under Local Rule  
17 7.4. In accordance with 28 U.S.C. § 636(b)(1)(A), the Court will not reverse any such order,  
18 *including one imposing sanctions*, unless the moving party demonstrates that the Magistrate  
19 Judge's order "is clearly erroneous or contrary to law."

20 4. Exceptions to Discovery Cutoff. The Court establishes a discovery cutoff date to  
21 facilitate the timely, efficient and just resolution of this case. So long as that objective is in no way  
22 impeded, and provided that the parties meet the other conditions in this paragraph, the parties are  
23 permitted to conduct discovery beyond the cutoff date. These conditions are: (a) no discovery  
24 motions resulting from post-cutoff discovery disputes may be brought; and (b) the fact that  
25 discovery is being conducted after the cutoff will not be cause for continuing the trial date or for  
26 not complying with the other deadlines and requirements in this order.

27  
28 Thus, parties conducting discovery after the cutoff accept the risk that they will not be able to

1 enforce their rights in the event of a dispute.

2 **B. Expert Discovery**

3 1. The only expert discovery deadline on the schedule on the last page is the last day for  
4 serving the initial disclosures, pursuant to Federal Rules of Civil Procedure 26(a)(2). If the parties  
5 proceed under that rule, their basis for seeking summary judgment may be affected, because expert  
6 discovery may be continuing after the last day for hearing motions, so they may be well advised to  
7 begin the process much earlier.

8 2. If expert discovery necessitates motion practice which cannot be resolved until after  
9 the deadlines set forth below for motion practice, then those deadlines shall not apply. But because  
10 Local Rules 7.4.1 and 7.15.1 require ample time to meet and confer as well as brief the matters,  
11 the parties should commence expert discovery shortly after the initial designations of experts,  
12 because in no event will the Pre-Trial Conference and trial dates be continued merely because  
13 expert discovery is still underway.

14 **II. MOTIONS AND MOTION CUTOFF DATE**

15 **A. General Provisions**

16 All law and motion matters, except for motions in limine, must be set for hearing (not filing) by the  
17 motion cutoff date specified on the last page.

18 The parties must adhere to the requirements of the Local Rules. *See* Local Rules 7.4 (pre-filing  
19 conference and notice of motion), 7.5 (motion papers and evidence), 7.6 (response to motion), 7.7 (reply  
20 by moving party), and 7.8 (time limits on continuances). If any party does not oppose a motion, that party  
21 shall submit a written statement that it does not oppose the motion in accordance with Local Rule 7.6. The  
22 parties should note that failure to meet the time limits set forth in Local Rule 7 may be deemed consent to  
23 the granting of the motion. Local Rule 7.9. The Court will not decide late-filed motions.

24 Courtesy copies of all oppositions and replies, conformed to reflect that they have been filed, shall  
25 be deposited in the drop box in the entrance way to chambers, to the left of Courtroom 14.

26  
27 Issues left undetermined after the passage of the motion cutoff date should be listed as issues for  
28 trial in the pre-trial conference order. As an exception to the above, motions in limine dealing with

evidentiary matters may be heard at the Pre-Trial Conference or (at the Court's discretion) at the start of trial; however, the Court will not hear or resolve summary judgment motions disguised as motions in limine. In addition, delay which interferes with preparation by the Court and its staff may cause imposition of sanctions under Local Rule 27.1.

**B. Applications and Stipulations for Extensions of Time**

Applications to extend the time to file any required document or to continue any pretrial or trial date must set forth

(i) the existing due date or hearing date;

(ii) specific, concrete reasons supporting good cause for granting the extension. In this regard, a statement that an extension "will promote settlement" is insufficient. The requesting party or parties must indicate the status of ongoing negotiations: have written proposals been exchanged? Is counsel in the process of reviewing a draft settlement agreement? Has a mediator been selected?

(iii) whether there have been prior requests for extensions, and whether these were granted or denied by the Court.

**C. Motions Under Fed.R.Civ.P. 12.**

Many motions to dismiss could be avoided if the parties confer in good faith, especially for perceived defects in the original complaint. In the unlikely event that motions under Rule 12 challenging pleadings are filed after the Mandatory Status Conference, the moving party shall attach a copy of the challenged pleading to the Memorandum of Points and Authorities in support of the motion.

**D. Summary Judgment Motions.**

Parties need not, and in many cases they should not, wait until the motion cutoff to bring motions for summary judgment or partial summary judgment. However, in virtually every case, the Court expects that the moving party will provide more than the minimum notice for summary judgment motions. Summary judgment motions are, of course, very fact-dependent. All parties should prepare their papers in a fashion that will assist the Court in absorbing the mass of facts. (*E.g.*, generous use of tabs, tables of contents, headings, indices, etc.) The parties are advised to pay special attention to their Separate Statements under Local Rule 7.14.1 and 7.14.2 because the Court will place a great deal of importance on them. The Court would appreciate the parties delivering to chambers a copy of the diskette, in WordPerfect format,

1 containing the Separate Statements.

2 **E. Oral Argument.**

3 Sometimes the Court will not hear oral argument. When that is the case, the Court will notify the  
4 parties in advance. If there is a hearing, tentative rulings will often be available in the courtroom  
5 approximately one-half hour before the call of the calendar. The parties are expected to be familiar with  
6 the tentative ruling at the time of argument.

7 **F. Motions in Limine.**

8 The Court understands that typically the parties cannot (or at least do not) focus on evidentiary and  
9 related issues until the last stages of trial preparation. This is a mistake. Such motions can be very helpful  
10 in narrowing issues, limiting discovery and promoting settlement. With these benefits in mind, the Court  
11 encourages the parties carefully to consider filing such motions before the last stages of trial preparation.  
12 In any event, the parties must file motions in limine in accordance with Local Rule 7.4 by the date specified  
13 on the last page. The parties shall file their opposing and reply papers in accordance with Local Rules  
14 7.6 and 7.7 respectively. The Court will make every effort to rule upon motions in limine at the Pre-Trial  
15 Conference.

16 **III. PRE-TRIAL CONFERENCE AND LOCAL RULE 9 FILINGS**

17 **A. General Provisions**

18 The Pre-Trial Conference (“PTC”) will be held at 2:30 P.M. on the date specified, unless the Court  
19 expressly waived a PTC at the Status Conference. (In the rare cases where the Court waives a PTC, the  
20 parties must follow Local Rule 9.11.) If adjustments in the Court’s calendar to accommodate congestion  
21 become necessary, the Court may re-calendar the PTC instead of the trial date. Therefore, the parties  
22 should assume that if the PTC goes forward, the trial will go forward without continuance, although some  
23 brief period of trailing may prove necessary.

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26 The lead trial attorney on behalf of every party shall attend both the PTC and all meetings of the  
27 parties in preparation of the PTC. Unless excused for good cause shown in advance of the PTC, the Court  
28 reserves the right to designate the attorney attending the PTC as lead trial counsel.

1 A continuance of the PTC at the parties' request or by stipulation is highly unlikely. Specifically,  
2 failure to complete discovery is not a ground for continuance. In the unlikely event that the Court agrees  
3 to continuing the PTC, the trial date is likely to be delayed as a result, possibly for a few months. If a  
4 change in the trial date is necessitated or likely because of the Court's calendar or otherwise, modifications  
5 of that date will be discussed at the PTC.

6 At the PTC, the parties should be prepared to discuss means of streamlining the trial, including, but  
7 not limited to: bifurcation; presentation of foundational and non-critical testimony and direct testimony by  
8 deposition excerpts; narrative summaries and/or stipulations as to the content of testimony; presentation  
9 of testimony on direct examination or by declaration subject to cross-examination; and qualification of  
10 experts by admitted resumes. The Court will attempt to rule upon previously-filed motions in limine at the  
11 PTC. The Court will also discuss settlement.

12 **B. Form of Pre-Trial Conference Order ("PTCO")**

13 The proposed PTCO shall be lodged fourteen calendar days before the PTC. Adherence to this  
14 time requirement is necessary for in-chambers preparation of the matter. The form of the proposed PTCO  
15 shall comply with Appendix A to the Local Rules and the following:

16 1. Please place in "ALL CAPS" and in **bold** the separately numbered headings for each  
17 category in the PTCO (e.g., "**1. THE PARTIES**" or "**7. CLAIMS AND DEFENSES OF THE**  
18 **PARTIES**".)

19 2. Please include a Table of Contents at the beginning.

20 3. In specifying the surviving pleadings under Section 1, please state which claims or  
21 counterclaims have been dismissed or abandoned. E.g. "Plaintiff's second cause of action for breach of  
22 fiduciary duty has been dismissed." Also, in multiple party cases where not all claims or counterclaims will  
23 be prosecuted against all remaining parties on the other side, please specify to which party each claim or  
24 counterclaim is directed.

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26 4. *In specifying the parties' claims and defenses under Section 7, each party shall closely*  
27 *follow the examples set forth in Appendix A of the Local Rules.*

28 5. In drafting the PTCO, the Court also expects that the parties will attempt to agree on and

1 set forth as many non-contested facts as possible. The Court will usually read the uncontested facts to the  
2 jury at the start of the trial. A carefully drafted and comprehensively stated stipulation of facts will reduce  
3 the length of trial and increase jury understanding of the case.

4 6. In drafting the factual issues in dispute for the PTCO, the parties should attempt to state  
5 issues in ultimate fact form, not in the form of evidentiary fact issues (i.e., was the defendant negligent, was  
6 such negligence the proximate cause of injury to the plaintiff, was the plaintiff negligent, etc., not was the  
7 plaintiff standing on the corner of 5<sup>th</sup> and Spring at 10 a.m. on May 3, etc.). The parties may, if they so  
8 desire, list sub-issues under the headings of ultimate fact issues, but should not use this as a device to list  
9 disputes over evidentiary matters. In general, the issues of fact should set forth the disputed elements of  
10 the claim or affirmative defenses.

11 7. The Court may well submit fact issues to the jury in the form of findings on a special verdict.  
12 The issues of fact should track the elements of a claim or defense on which the jury will be required to  
13 make findings.

14 8. Issues of law should state legal issues on which the Court will be required to rule after the  
15 PTC, or during the trial, and should not list ultimate fact issues to be submitted to the trier of fact.

16 **C. Rule 9 Filings; Memoranda; Witness Lists; Exhibit Lists.**

17 The parties must comply fully with the requirements of Local Rule 9. They shall file carefully  
18 prepared Memoranda of Contentions of Fact and Law (which may also serve as the trial brief), along with  
19 their respective Witness Lists and Exhibit Lists, all in accordance with Local Rules 9.5, 9.6 and 9.7. See  
20 the last page for dates.

21 **D. Trial Witness Estimate Form.**

22 At the pre-trial conference the parties will be given a Joint Trial Witness Time Estimate Form,  
23 which they will be required to fill in and give to the Court on the first day of trial.

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26 **E. Jury Instructions, Verdict Forms and Special Interrogatories.**

27 1. On the dates specified on the attached “Schedule of Pretrial Dates”, the parties are required  
28 jointly to submit one set of agreed upon substantive instructions, a verdict form and, if necessary, special

1 interrogatories. “Substantive jury instructions” means all instructions relating to the elements of all claims  
2 and defenses in the case. The parties need not submit general instructions. The Court would appreciate  
3 the parties delivering to chambers a copy of these filings on disk in WordPerfect 7.0 format at the time the  
4 documents are filed.

5         2.         If the parties cannot agree upon one complete set of substantive instructions, special or  
6 general verdict form and/or special interrogatories, they shall file a joint document reflecting those items that  
7 they have agreed upon, and any party may file a separate set of instructions, verdict form and/or special  
8 interrogatories that party wishes the Court to use.

9         3.         Any opposition to these filings shall be filed not later than one week before trial. This is a  
10 modification of Local Rule 13. The earlier deadline will ultimately enable the parties, counsel and the Court  
11 to save time and money, because it will require the parties to concentrate on the legal elements of their  
12 various claims and defenses. That will also make the PTC more meaningful. (Too often the parties are  
13 surprised at trial by the fact that they have failed to ascertain this essential information.)

14         All objections shall be in writing and shall set forth the other party’s proposed instruction or  
15 interrogatory in its entirety. Objections should then set forth the specific portion of the proposal to which  
16 the objection is directed. Objections shall contain a concise argument and citation to authority explaining  
17 why the proposal is improper. Where applicable, the objecting party shall submit an alternative proposal  
18 covering the subject. Failure to file timely any such objection shall be deemed a waiver of that objection.

19         4.         All proposed jury instructions, both joint and separate, shall be in the format specified by  
20 Local Rule 13.2.2. The parties need not submit a separate copy of instructions without citations to  
21 authority.

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23         ///

24         5.         A table of contents shall be included with all jury instructions submitted to the Court. The  
25 table of contents shall set forth the following:

- 26                 a.         The number of the instruction;
- 27                 b.         A brief title of the instruction;
- 28                 c.         The source of the instruction; and



1                   d.       The page number of the instruction.

2       For example:

3 <u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page Number</u>
4           1	Burden of Proof	9 <sup>th</sup> Cir. 12.2	5

5           6.       The Court prefers counsel to use the instructions from the *Manual of Model Jury*  
6 *Instructions for the Ninth Circuit* (West 1997) where applicable. Where California law is to be applied  
7 and the above instructions are not applicable, the Court prefers counsel to use *California Civil Jury*  
8 *Instructions - Civil* (BAJI). If neither of these sources is applicable, counsel are directed to use the  
9 instructions in Devitt, Blackmar and Wolff, *Federal Jury Practice and Instructions*.

10          7.       Modifications of instructions from the foregoing sources (or any other form instructions)  
11 must specifically state the modification made to the original form instruction and the authority supporting  
12 the modification.

13           **F.       Joint Statement of the Case and Requests for Voir Dire.**

14           On the same date the parties file their joint and separate proposed jury instructions, the parties shall  
15 also file their joint statement of the case which the Court shall read to all prospective jurors prior to the  
16 commencement of voir dire. The statement should be not longer than two or three paragraphs.

17           The Court conducts voir dire of all prospective jurors. On the same date that the parties file their  
18 Joint Statement of the Case, each party shall file its separate proposed voir dire questions. The parties  
19 need not submit requests for standard voir dire questions, such as education, current occupation, marital  
20 status, prior jury service, etc., but should include only proposed questions specifically tailored to the parties  
21 and issues of the case.

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23           **G.       Findings of Fact and Conclusions of Law.**

24           For a non-jury trial, the parties shall lodge their proposed findings of fact and conclusions of law  
25 in accordance with Local Rule 13.5 not later than one week before trial. The court would appreciate the  
26 parties delivering to chambers a copy of these findings on disk in WordPerfect format. Please see the  
27 Court's Civil Trial Order.

28   **IV.    SETTLEMENT**

1 Local Rule 23.3 provides that the Settlement Conference shall be concluded not later than 45 days  
2 before the Pretrial Conference. This Court requires a slightly different approach. The Settlement  
3 Conference shall take place not later than six weeks before trial. The Court expects that completion of  
4 all discovery and dispositive motions will help the parties assess their positions before they embark on the  
5 costly pre-trial process under Local Rule 9. But sometimes parties find it more difficult to settle after they  
6 incurred the cost of all discovery and motion practice. The Court therefore strongly encourages counsel  
7 and the parties to pursue settlement earlier.

8 The Court has a keen interest in helping the parties achieve settlement. If the parties believe that  
9 it would be more likely that a settlement would be reached if they conduct the settlement conference at a  
10 different time, they should conduct it at that time unless it would be later than six weeks before trial, in  
11 which event they should submit to the Court a stipulation to the new date. The Court will be inclined to be  
12 flexible about this date. In any event, as indicated in the Schedule of Pretrial Dates attached hereto, the  
13 parties must file a Status Report re Settlement at the time that they lodge the Proposed Pretrial Conference  
14 Order, indicating whether they have conducted the Local Rule 23 Settlement Conference and/or what  
15 additional steps are being taken to achieve settlement.

16 This Court will not conduct settlement conferences in non-jury cases which he is to try. In jury  
17 cases, the Court will conduct a settlement conference at the parties' joint request if three conditions exist:

- 18 1. The parties are satisfied that the fact issues in the case will be tried to a jury.
- 19 2. All significant pre-trial rulings which the Court must make have been made.
- 20 3. The parties desire the Court to conduct the conference, understanding that if settlement fails,  
21 the Court will try the case.

22 If the parties are inclined to select this Court to conduct the Mandatory Settlement Conference,  
23 the parties should consult the Court's Standing Order re Settlement Conference so that they fully  
24 understand the Court's requirements for the settlement conference. That order will govern the settlement  
25 conference procedures before this Court, but may also serve as a useful reference for settlement  
26 conferences conducted pursuant to the other available procedures. Copies of that and all other standard  
27 orders of this Court are available through the Courtroom Deputy Clerk or on the Central District of  
28 California website, at "www.cacd.uscourts.gov," under "Judge's Requirements."

1 **V. TRIAL DATE**

2 This case has been set for trial on the date specified on Exhibit "A" below at 8:30 A.M. Please  
3 review the Court's separately-issued Civil Trial Order for the procedures and requirements for civil trials.

4 **VI. CONCLUSION**

5 The Court thanks the parties and their counsel for their anticipated cooperation in carrying out these  
6 requirements.

7 IT IS SO ORDERED.

8  
9 DATED: \_\_\_\_\_, 19\_\_

\_\_\_\_\_  
A. HOWARD MATZ  
United States District Judge

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11 \* Copies of this and all other standard orders of this Court are available on the Central District of  
12 California website, at "www.cacd.uscourts.gov," under "Judge's Requirements."  
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**JUDGE A HOWARD MATZ**  
**PRESUMPTIVE SCHEDULE OF PRETRIAL DATES<sup>1</sup>**

Matter	Time	Week s before trial <sup>2</sup>	Plaintiff's Request	Defendant's Request	Court Order
Trial date (jury) (court) Estimated length: _____ days	8:30a				
[Jury trial:] Opp'n to Jury Instructions and Verdict Form or Special Interrogs [LR 13.3]* [Court trial:] File Findings of Fact and Conclusions of Law [LR 13.5]		-1			
Pretrial Conference [LR 9]; Hearing on Motions in Limine; File Joint and Separate Jury Instructions and Verdict Form or Special Interrogs, Proposed <i>Voir Dire</i> Qs and Agreed-to Statement of Case [LR 13.2.1, 13.4.1]*	2:30p	-2			
Lodge Pretrial Conf. Order [LR 9.8.1]*; File Memo of Contentions of Fact and Law [LR 9.5]*; Exhibit List [LR 9.7]*; Witness List [LR 9.6]*; Status Report re Settlement		-4			
Last day for hand-serving Motions in Limine [LR 7.4]		-5			
Last day to conduct Settlement Conference [LR 23.3]*		-6			
Last day for hearing motions [LR 7.4]	10:00a	-9			
Last day for hand-serving motions (other than Motions in Limine or concerning expert-discovery)		-12			
Last day to serve expert disclosures [FRCP 26(a)(2)] <sup>3</sup>		-13			
Non-expert discovery cut-off		-15			

<sup>1</sup> Review the Court's "Order re Mandatory Status Conference" for the meaning of "cutoff" and other terms.

<sup>2</sup> These calculations are based on the Monday before the Tuesday trial date.

<sup>3</sup> Disclosure of counter-experts must be "within 30 days after the disclosure by the other party." FRCP 26(a)(2)(C). NOTE: if expert discovery is necessary for summary judgment motions, the parties should begin the disclosure process well before this date.

\* Modifies applicable Local Rule or Federal Rule of Civil Procedure.

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